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EXAMINER

GEORGEWILL, OPIRIBO

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

|                              |                                       |   |  |
|------------------------------|---------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/580,146  | <b>Applicant(s)</b><br>HILDING-SVENDSEN, PETER<br>WILLIAM |  |
|                              | <b>Examiner</b><br>OPIRIBO GEORGEWILL | <b>Art Unit</b><br>4153                                   |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
     4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/18/06</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 11, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper et al., US Pat No. 20010000540 A1.**

Re claim 11, Cooper discloses a method of replaying a message (paragraph [2]) received in a wireless communication unit (paragraph [3], where Cooper discloses that the audio stream (message) may come via a broadcast signal, via cable, via satellite. The signal coming from a satellite and broadcast implies that the receiving unit is a wireless unit and would therefore apply in a wireless communication unit) comprising the steps of:

a) recording said message while playing said message in a speaker (paragraph [23] – [24];

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b) terminating said playing of said message and continuing on receiving and recording of said message, (paragraph [39])

c) replaying said recorded message from a beginning of said message, while continuing with receiving and recording said message (paragraph [24], [48]).

The rejection of claim 11 is incorporated herein. Claims 12, 14 depend on claim 11 and only further limitations are addressed below.

Re claim **12**, Copper discloses that the step of replaying starts after said step of terminating with a delay caused by a response time of an electronic circuitry or a processing time of a vocoder (paragraph [41], fig 1, ref 110, discloses a decompression between memory and audio out implying a delay in response time).

Re claim **14**, Copper discloses that the user initiates the termination (paragraph [39]).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (***See MPEP Ch. 2141***)

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- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

**5. Claims 1, 2, 3, 4, 5, 6, 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Pat No. 20010000540 A1 in view of Meador Jack L., US Pub No 20030078083 A1.**

Re claim 1, Cooper discloses a wireless communication unit (paragraph [3], where Cooper discloses that the audio stream (message) may come via a broadcast signal, via cable, via satellite. The signal coming from a satellite and broadcast implies that the receiving unit is a wireless unit and would therefore apply in a wireless communication unit) for use in a digital radio communication system (paragraph [18], the audio-to-digital conversion), said wireless communication unit comprising:

means for signal reception (fig 9, ref 915),

a vocoder (fig 8, ref 812),

a digital-to-analog converter (fig 8, ref 814, since the audio message is digitized in 804, it would imply that the digital-to-analog converter is available in the playback),

a) microprocessor (fig 1, ref 130) comprising means for storing messages (fig 1, refs 106, 108, 122)

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b), when activated, means to stop playing a currently received message while still recording said message in said means for storing messages (paragraphs [39] – [40] and

c) means to start replaying said message stored in said means for storing messages from a beginning of said message (paragraphs [40], [48], the user can set the time for the replay to something other than 10 seconds).

Cooper is silent on a means for signal transmission. However, Meador in related art discloses a receiver system and storing audio signal (see abstract). Meador further discloses a transmitter and a receiver (fig 3, refs 58 and 72). It would have been obvious to a person having ordinary skills at the time of the invention to incorporate the teaching of Meador into the system disclosed by Cooper, modifying the system to have a means for signal transmission (transmitter) so as to add transmitting capability to the system.

The rejection of claim 1 is incorporated herein. Claim 2 and 10 depend on claim 1 and only further limitations will be addressed below.

Re claim **2**, Copper in view of Meador, as a whole, discloses the claimed invention except for having only one buffer instead of a first and second buffer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to separate the buffer into two while still maintaining the same functionality , since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179.

The rejection of claim 2 is incorporated herein. Claim 3, 4, 5, 6 depend on claim 2 and only further limitations will be addressed below.

Re claim **3**, Copper in view of Meador, as a whole, discloses that the memory (Cooper: fig 1, ref 108) is connected to the first buffer (Cooper: fig 1, ref 106) and vocoder (Cooper: fig 1, ref 110 and fig 8, ref 812).

Re claim **4**, Copper in view of Meador, as a whole, discloses the claimed invention except for the memory connected to second buffer and digital-to-analog converter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the memory connected to second buffer and the digital-to-analog converter while still maintaining the same functionality, since it has been held that rearranging parts of an invention involved only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Re claim **5**, Cooper in view of Meador, as a whole, discloses that wherein the vocoder upon reception of a signal from the said microprocessor (Cooper: paragraph [22]) is adapted to stop playing said message from the first buffer and to start replaying said message from the beginning of said message, from said first buffer (Cooper: paragraph [33])

Re claim **6**, Cooper in view of Meador, as a whole, discloses that wherein the digital-to-analog converter upon reception of a signal from the said microprocessor (Cooper: paragraph [22]) is adapted to stop playing said message from the first buffer and to start replaying said message from the beginning of said message, from said first buffer (Cooper: paragraph [33]).

The rejection of claim 3 is incorporated herein. Claim 7 depends on claim 3 and only further limitations will be addressed below.

Re claim 7, Cooper in view of Meador, as a whole, discloses the vocoder upon receipt of a signal from the microprocessor is adapted to stop playing said message from said first buffer (Cooper: paragraph [38], only the latest portion of the audio stream is stored in temporary buffer), and to start replaying said message from the beginning of said message from memory (paragraph [41], retrieving the audio stream from storage unit (memory)).

The rejection of claim 4 is incorporated herein. Claim 8 depends on claim 4 and only further limitations will be addressed below.

Re claim 8, Cooper in view of Meador, as a whole, discloses the digital-to-analog converter upon receipt of a signal from the microprocessor is adapted to stop playing said message from said second buffer (Cooper: paragraph [38], only the latest portion of the audio stream is stored in temporary buffer), and to start replaying said message from the beginning of said message from memory (paragraph [41], retrieving the audio stream from storage unit (memory)).

Re claim 10, Cooper in view of Meador discloses a replay switch that is operable connected to the microprocessor (Cooper: fig 1, ref 1000, furthermore, paragraph [48], Cooper discloses that the replay to be something other than 10 seconds (from the beginning)).

- 6. Claims 15, 16, 17, 18, 19, 20, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Pat No. 20010000540 A1.**



The rejection of claim 11 is incorporated herein. Claim 15, 17 depend on claim 11 and only further limitation will be addressed herein.

Re claim **15**, Copper discloses that the message is still recorded in a buffer when terminated (paragraph [31]). Cooper discloses the claimed invention except for a first and second buffer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to two buffers instead the one buffer disclosed by Copper and hence have a first buffer, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179.

The rejection of claim 15 is incorporated herein, claim 16, 19 depend on claim 15 and only further limitations will be addressed below.

Re claim **16**, discloses that message is transferred from first buffer to a memory (paragraph [19], buffer unit may be used as a temporary storage for providing larger sequential blocks of audio data to the storage unit (memory)).

Re claim **17**, Copper discloses that the message is still recorded in a buffer when terminated (paragraph [31]). Cooper discloses the claimed invention except for a first and second buffer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to two buffers instead the one buffer disclosed by Copper and hence have a second buffer, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179.

The rejection of claim 17 is incorporated herein, claim 18 and 20 depends on claim 17 and only further limitations will be addressed below.

Re claim **18**, Copper discloses that message is transferred from first buffer to a memory (paragraph [19], buffer unit may be used as a temporary storage for providing larger sequential blocks of audio data to the storage unit (memory)).

Re claim **19**, Copper discloses the retrieving by a vocoder from said first buffer (paragraph [33], where copper discloses that the user stops recording to the temporary buffer and plays back (retrieves) the last portion of the temporary buffer. Furthermore, fig 8, ref 812, discloses a vocoder by functionality).

Re claim **20**, Copper discloses the receiving from second buffer for playback (fig 8, ref 808 through 812) but is silent about a digital-to-analog converter. Cooper however discloses the digitizing of the message (fig 8, ref 804, and paragraph [42]). One having ordinary skills in the art knows and expects that a digital-to-analog converter is needed before the message is played back and therefore expect a digital-to-analog converter in the playback (fig 8, ref 814). Cooper discloses the claimed invention except it is structurally set up to have the first and second buffers coupled to the vocoder which in turn is coupled to the digital-to-analog converter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to move the second buffer to a position after the vocoder and coupled to the digital-to-analog converter and the digital-to-analog converter to retrieve messages from the second buffer, since it

has been held that rearranging parts of an invention involved only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

The rejection of claim 16 is incorporated herein. Claim 21 depends on claim 16 and only further limitations will be addressed below.

Re claim **21**, Copper discloses the vocoder retrieving message from memory (fig 8, Copper shows that ref 812 (vocoder) reading data (retrieving message) from ref 808 (memory)).

The rejection of claim 18 is incorporated herein. Claim 22 depends on claim 18 and only further limitations will be addressed below.

Re claim **22**, Copper discloses the receiving from second buffer for playback (fig 8, ref 808 through 812) but is silent about a digital-to-analog converter. Cooper however discloses the digitizing of the message (fig 8, ref 804, and paragraph [42]). One having ordinary skills in the art knows and expects that a digital-to-analog converter is needed before the message is played back and therefore expect a digital-to-analog converter in the playback (fig 8, ref 814). Cooper discloses the claimed invention except it is structurally set up to have the memory coupled to the vocoder which in turn is coupled to the digital-to-analog converter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to move a part of the memory to a position after the vocoder and coupled to the digital-to-analog converter and the digital-to-analog converter to retrieve messages from the memory, since it has been held

that rearranging parts of an invention involved only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

**7. Claims 13, 24, 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Pat No. 20010000540 A1 as applied in claim 11 above and in view of Ohel Hagai., US Pub No. 20040117859 A1**

The rejection of claim 11 is incorporated herein. Claim 13, 24 and 26 depend on claim 11 and only further limitations will be addressed herein.

Re claim **13**, Copper discloses the claimed invention but is silent about the said message. Ohel in related art (see abstract) discloses a system for recording for playback in a wireless communication device. Ohel teaches a simplex transceiver on the device. One having ordinary skills in the art will recognize this to mean that message is a simplex message. It would therefore be obvious to a person having ordinary skills in the art, at the time of the invention, to incorporate the teaching of Ohel into the disclosure of Cooper, as a whole, so that the method disclosed by Cooper is modified to have a simplex message so as to add the concurrent listening of messages to multiple channel multi channel communications (see Ohel, paragraph [5] - [9]).

Re claim **24**, the combined teaching of Copper in view of Ohel, as a whole is silent on incoming call being signalized when the replay is active. However, Copper in view of Ohel, as a whole, discloses the display system that has active state and inactive state depending on what function is being displayed (paragraph [66], Ohel discloses playback functionality in an active state).

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Furthermore, Ohel discloses an inactive display area which shows the state of the inactive states (paragraph [69]). Since Ohel exemplary uses a active call and recording signalization (paragraph [70], Ohel discloses "during the time of such movement, for example, a record indicator (signalization) would be displayed in the display indicating to the officer that the other individual on the cell call was still on the line, but was being placed on hold, and was being recorded until the office returned to the call...."), the reverse situation is also with the scope of the invention (Ohel: paragraph [72]), and would be obvious to a person having ordinary skills in the art

Re claim **26**, the combined teaching of Cooper in view of Ohel, as a whole, discloses that the wireless communication unit is a ACPO 25 radio (see paragraph [28], where Ohel discloses a APCO transceiver).

**8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Pat No. 20010000540 as applied in claim 11 above in view of Kresser, Thomas et al., WIPO Pub No. 0203669 A1**

The rejection of claim 11 is incorporated herein. Claim 23 depends on claim 11 and only further limitations are addressed below.

Re claim **23**, Copper is silent on the message is completely received a notification on activation of the replay is transmitted to a sender of said message. Kresser in related art discloses a system for that includes the playing back of a message. Kresser further discloses the automatic sending of playback confirmation to the sender of a completely received message (see abstract).

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Kresser does not specify when the playback confirmation should be sent, however Kresser states that the time of playing the message is also sent. Since the time at which a confirmation message is sent is within the routine skills of a person having ordinary skills in the art at the time of invention, it would be obvious to a person having ordinary skills in the art at the time of the invention, to incorporate the teaching of Kresser into the disclosure of Cooper, as a whole, to have send a notification to the sender when the message is replayed after it has been completely received so as to avoid recalling the recipient with the same message.

**9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Pat No. 20010000540 A1 in view of Meador US Pub No. 20030078083 A1 as applied in claim 11 above and further in view of Kresser, Thomas et al., WIPO Pub No. 0203669 A1**

The rejection of claim 1 is incorporated herein. Claim 9 depends on claim 1 and only further limitations will be addressed below.

Re claim 9, Cooper in view of Meador, as a whole, discloses the claimed invention but is silent on the transmission of a notification that the replay is activated. Kresser in related art discloses a system for that includes the playing back of a message. Kresser further discloses the automatic sending of playback confirmation to the sender of a completely received message (see abstract). Kresser does not specify when the playback confirmation should be sent, however Kresser states that the time of playing the message is also sent. Since

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the time at which a confirmation message is sent is within the routine skills of a person having ordinary skills in the art at the time of invention, it would be obvious to a person having ordinary skills in the art at the time of the invention, to incorporate the teaching of Kresser into the disclosure of Cooper, as a whole, to have send a notification to the sender when the message is replayed after it has been completely received so as to avoid recalling the recipient with the same message.

### ***Contact Information***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Opiribo Georgewill whose telephone number is (571) 270-7926. The examiner can normally be reached on Mon-Thurs from 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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